

AUTHORIZING THE SECRETARY OF THE INTERIOR TO  
ISSUE TO JAKE ALEXANDER A PATENT IN FEE TO  
CERTAIN LANDS IN THE STATE OF ALABAMA

JULY 3, 1952.—Committed to the Committee of the Whole House and ordered  
to be printed

Mr. BENTSEN, from the Committee on Interior and Insular Affairs,  
submitted the following

R E P O R T

[To accompany H. R. 981]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 981) authorizing the Secretary of the Interior to issue to Jake Alexander a patent in fee to certain lands in the State of Alabama, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, lines 6 to 10 inclusive, strike the land description beginning with the word "The" on line 6 and ending with "less" on line 10, and insert in lieu thereof:

The southeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter, section 31, township 7 south, range 6 west, Huntsville meridian; also the east half of the northwest quarter, section 6, township 8 south, range 6 west, Huntsville meridian, Lawrence County, Alabama, consisting of one hundred and sixty acres, more or less.

EXPLANATION OF THE BILL

H. R. 981 authorizes the Secretary of the Interior to issue a patent in fee to Jake Alexander for 160 acres of land in the State of Alabama.

Mr. Alexander has been in continuous possession of this land since 1900 and has paid taxes thereon during such time. There was never a question with respect to his ownership of the land until recently when the United States Government through the Forestry Service issued a notice that timber was to be cut on such land inasmuch as it was a part of the Bankhead National Forest. The facts show that Mr. Alexander claims title to the land in question through a chain of

title which originates by entries in the Lawrence County tract books. An analysis regarding the facts surrounding the original entries in the tract books and the successive transfer in the chain of title as shown by the records in the Bureau of Land Management, Washington, D. C., are as follows:

DETAILED ANALYSIS OF PAPERS AND RECORDS PERTAINING TO THE CLAIM OF MR. JAKE ALEXANDER TO THE  $E\frac{1}{2}NE\frac{1}{4}$ ,  $NE\frac{1}{4}SE\frac{1}{4}$  SEC. 31, T. 7 S., R. 6 W., AND TO THE  $E\frac{1}{2}NW\frac{1}{4}$  SEC. 6, T. 8 S., R. 6 W., HUNTSVILLE MERIDIAN, ALABAMA

#### I. THE PHOTOSTATIC COPIES OF THE LAWRENCE COUNTY RECORDS

The Lawrence County records submitted by Representative Jones read in part as follows:

##### *Description of the tract*

T. 8 S., R. 6 W., HUNTSVILLE

Part of section	Area		United States title (to whom sold or granted)	Date of sale location or grant	Number of certificate or warrant
	Section	Acres			
$NE\frac{1}{4}NW\frac{1}{4}$ -----	6	39.84	William Armstrong-----	Jan. 22, 1819	216
$SE\frac{1}{4}NW\frac{1}{4}$ -----	6	39.84	do-----	do-----	316
$W\frac{1}{2}NW\frac{1}{4}$ -----	6	79.69	do-----	do-----	2049

T. 7 S., R. 6 W., HUNTSVILLE

$NE\frac{1}{4}NE\frac{1}{4}$ -----	31	40.06	Chas. Williams-----	Sept. 9, 1818	212
$SE\frac{1}{4}NE\frac{1}{4}$ -----	31	40.06	Jas. Aldridge-----	Jan. 27, 1849	141
$NE\frac{1}{4}SE\frac{1}{4}$ -----	31	40.06	S. & N. R. R.-----	Jan. 18, 1895	-----

#### 2. BUREAU OF LAND-MANAGEMENT RECORDS ON LANDS IN SEC. 6, T. 8 S., R. 6 W.

On January 29, 1819, William Armstrong purchased under what is known as the credit system the  $NW\frac{1}{4}$  sec. 6, T. 8 S., R. 6 W., Huntsville meridian, Alabama, containing 159.38 acres at the rate of \$2 per acre, amounting in the whole for the quarter section of land to \$318.76 on which there was payable on account according to law the sum of \$79.69 being one-fourth part of the purchase money.

On January 22, 1819, Huntsville Receiver's Receipt No. 14871 was issued in the name of William Armstrong for the payment of \$16. A notation on the tract book in this office shows an account No. 216 opposite the receipt number. On February 16, 1819, Huntsville Receiver's Receipt No. 15252 was issued in the name of William Armstrong for the payment of the amount of \$63.69. This receipt referred to receipt 14871 and that the two payments were made in full of the first installment of the purchase money on the  $NW\frac{1}{4}$  sec. 6, T. 8 S., R. 6 W. A notation on the tract book in this office shows an account No. 217 opposite the receipt No. 15252.

On February 16, 1819, the register of the Huntsville land office issued Credit Certificate No. 8308 in the name of William Armstrong. The certificate recited the terms of the purchase, also that one-fourth of the purchase price had been paid on the  $NW\frac{1}{4}$  sec. 6, T. 8 S., R. 6 W., and that the balance of the purchase money would become due in three payments of \$79.69 each on or before January 22 in the years 1821, 1822, and 1823.

On September 20, 1821, William Armstrong by his attorney in fact, James Havins, relinquished his credit purchase as to the  $E\frac{1}{2}NW\frac{1}{4}$  sec. 6, T. 8 S., R. 6 W., under the relief act of March 2, 1821 (3 Stat. 612), and requested that the money paid thereon be applied to the  $W\frac{1}{2}NW\frac{1}{4}$  said sec. 6. The relinquishment was given No. 892. Accordingly, a certificate of further credit No. G. 665 was issued on September 22, 1821, under the act of March 2, 1821, in the name of William Armstrong in regard to the payments on the  $W\frac{1}{2}NW\frac{1}{4}$  said sec. 6. Thereafter the purchase price was completed on the  $W\frac{1}{2}NW\frac{1}{4}$  sec. 6 by credit from another relinquished credit entry, a small payment and discount. Credit Final Certificate (under) No. 2409 was issued on July 3, 1827, in the name of

William Armstrong for the  $W\frac{1}{2}$   $NW\frac{1}{4}$  sec. 6, T. 8 S., R. 6 W., Huntsville meridian, and patent was issued on June 5, 1828.

Upon the relinquishment of the credit entry as to the  $E\frac{1}{2}$   $NW\frac{1}{4}$  sec. 6, T. 8 S., R. 6 W., Huntsville meridian, on September 20, 1821, the land became vacant public land of the United States. The notations on the copy of the Lawrence County tract book as to the  $NE\frac{1}{4}$   $NW\frac{1}{4}$ , and to the  $SE\frac{1}{4}$   $NW\frac{1}{4}$  sec. 6 confirm the name and date of the credit entry purchase of William Armstrong on January 22, 1819, and the number 216 appears to be the account number as shown on the tract book in this office, but those notations do not show the final disposition of the credit entry as to those two tracts of land as set out above. The notations on the copy of the county tract book as to the  $W\frac{1}{2}$   $NW\frac{1}{4}$  sec. 6, T. 8 S., R. 6 W., Huntsville meridian, do show the date of the William Armstrong credit entry on January 22, 1819. Our records also indicate that the number of the Credit Final Certificate (under) 2409 designates the certificate issued for the  $W\frac{1}{2}$   $NW\frac{1}{4}$  sec. 6 only. The  $E\frac{1}{2}$   $NW\frac{1}{4}$  said sec. 6 is unpatented and unentered public land within the Bankhead National Forest.

### 3. BUREAU OF LAND MANAGEMENT RECORDS ON LANDS IN SEC. 31, T. 7 S., R. 6 W.

On September 25, 1871, the South and North Alabama Railroad Co., selected the  $E\frac{1}{2}$   $NE\frac{1}{4}$  and the  $NE\frac{1}{4}$   $SE\frac{1}{4}$  sec. 31, T. 7 S., R. 6 W., Huntsville meridian, Alabama, as being within the 15 miles or indemnity limits of the railroad. The selection was canceled on May 25, 1885, because the lands selected were without the indemnity limits. The railroad company on June 18, 1895, again selected the  $E\frac{1}{2}$   $NE\frac{1}{4}$  and the  $NE\frac{1}{4}$   $SE\frac{1}{4}$  said sec. 31 and by departmental decision of December 9, 1897 (Contest Docket F 12-11329), the selection was canceled on March 22, 1898, and the case was closed in favor of the United States on the same date.

On August 6, 1914, John Clardy made homestead entry, Montgomery 09115, for the  $NE\frac{1}{4}$   $NE\frac{1}{4}$ ,  $SE\frac{1}{4}$   $NE\frac{1}{4}$  and the  $NE\frac{1}{4}$   $SE\frac{1}{4}$  sec. 31, T. 7 S., R. 6 W., Huntsville meridian. The entry was canceled on January 9, 1920 because of the failure of the entryman to submit final homestead proof within the statutory period.

The notation on the copy of the county tract book as to the  $NE\frac{1}{4}$   $NE\frac{1}{4}$  sec. 31, T. 7 S., R. 6 W., showing "Chas. Williams—Sept. 9, 1818—212" has been examined against the records.

Huntsville receiver's receipt No. 9659 was issued on September 9, 1818, in the name of Charles Williams for \$930.61 in full of the first installment of the purchase money for the  $NE\frac{1}{4}$  sec. 27, T. 7 S., R. 6 W., Huntsville meridian, containing 160.45 acres. It will be noticed that the receipt does not cover the land in question. The number 212 is probably the account number for the month of September 1818. The records do not show an entry for the  $NE\frac{1}{4}$   $NE\frac{1}{4}$  said sec. 31 in the name of Charles Williams.

The notation on the copy of the county tract book as to the  $SE\frac{1}{4}$   $NE\frac{1}{4}$  sec. 31, T. 7 S., R. 6 W., Huntsville meridian, showing "Jas. Aldridge—January 27, 1849—141" has been examined against the records. The records do not show an entry in the name of James Aldridge for the  $SE\frac{1}{4}$   $NE\frac{1}{4}$  said sec. 31.

The notation on the copy of the county tract book as to the  $NE\frac{1}{4}$   $SE\frac{1}{4}$  sec. 31 T. S., R. 6 W., Huntsville meridian, showing "S & N RR—January 18, 1895," has been checked against the records. That notation agrees with the records as to the description of the land and the name of the South and North Alabama Railroad Co. The company filed its second indemnity selection on June 18, 1895, instead of January 18, 1895.

From the foregoing, it may be seen that the Bureau of Land Management contends that patent was never issued to the lands in question. Therefore, it is the contention of the Department of the Interior and the Department of Agriculture that Mr. Alexander does not have good and sufficient title. In answer thereto Mr. Alexander proved that entries were made in 1819 on the Lawrence County tract book which show certificates issued to entryman, and thus change of title from the United States to such entryman. In corroboration of this fact, Mr. Alexander shows that since 1819 the lands have been occupied, used, and taxes paid thereon by his predecessors in interest and himself.

The committee is of the opinion that the equities are in favor of Mr. Alexander, and the committee therefore recommends enactment

of this legislation which will confirm title in the name of Mr. Alexander to the 160 acres in question. The committee feels that it is not imperative upon searching the title to a piece of land to go behind the original entry in the county or State tract books. In the instant case, one searching the title could well assume that the original entry in the tract books was correct and that the secretary of state's records in the State of Alabama showing certificate of title was correct. To say that Mr. Alexander does not have good title in the instant case would mean that all title examinations would have to originate in the office of the Bureau of Land Management inasmuch as the original entry in the State tract books could not be considered as the best evidence. Briefs submitted by the proponents of the bill set forth ample precedent for the fact that a title searcher is not required to go beyond the original entry in the tract book.

In addition to these facts, Mr. Alexander has been in open, hostile, and notorious possession of these lands in part before 1900 and in part since 1900 and has paid taxes thereon. To deny him of title to the land now would not, in the opinion of the committee, be equitable.

The report of the Department of Agriculture reads as follows:

DEPARTMENT OF AGRICULTURE,  
Washington, D. C., April 3, 1951.

HON. JOHN R. MURDOCK,  
*Chairman, Committee on Interior and Insular Affairs,  
House of Representatives.*

DEAR MR. MURDOCK: Reference is made to this Department's letter of February 5 relating to H. R. 981, authorizing the Secretary of the Interior to issue Jake Alexander a patent in fee to certain lands in the State of Alabama.

The bill directs the Secretary of the Interior to issue a fee patent to Jake Alexander for the E $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$  sec. 31, T. 7 S., R. 6 W., and the E $\frac{1}{2}$ NW $\frac{1}{4}$  sec. 6, T. 8 S., R. 6 W., Huntsville meridian, comprising 200 acres of land within the William B. Bankhead National Forest in Alabama.

Mr. R. L. Almon, attorney for Mr. Alexander, by letter of January 10 advised the forest supervisor that the NE $\frac{1}{4}$ NE $\frac{1}{4}$  sec. 31 should be deleted from the description of land claimed by Mr. Alexander. Accordingly, this report is directed to the lands described in H. R. 981, less this 40-acre subdivision.

A field examination of the land claimed by Mr. Alexander reveals that the entire area is forested, that none of it is, or probably ever has been, under cultivation or fence, and there are no buildings or indications that it has ever been occupied as a home.

The value of the timber and land claimed by Mr. Alexander is estimated to be \$4,000, based on the going sale value of similar private land within the William B. Bankhead National Forest.

According to the records in the Bureau of Land Management, these lands are owned by the United States. It is understood that Mr. Alexander claims these lands because they have been assessed to him on the tax rolls of Lawrence County for a long period of time. The county records indicate that his claim to the SE $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$ , sec. 31 originated in a quitclaim deed in 1907, and the E $\frac{1}{2}$ NW $\frac{1}{4}$ , sec. 6 in a mortgage foreclosure in 1919. The records further reveal that there was a tax sale in 1891 of the tract in sec. 31, with the owner listed as unknown, and that the tract in sec. 6 has been assessed to Mr. Alexander or his antecedents since 1871.

In 1942 local forest officers noted that the land was assessed to Mr. Alexander and by registered letter dated August 31 of that year notified him that the land belonged to the United States. Again on March 22, 1950, in connection with a contemplated timber sale, the forest supervisor wrote to Mr. Alexander that the land was in Government ownership and suggested that he write to the Bureau of Land Management in the Department of the Interior if he wanted to investigate further the status of the subdivisions in question, since the patenting of public domain lands is a responsibility of that Department. Insofar as can be ascertained, Mr. Alexander has never filed a formal claim to these lands with the Bureau of Land Management or with this Department.

It is the opinion of this Department that Mr. Alexander's claim to these lands should be settled on the basis of a thorough search of the land records in the county and in the Bureau of Land Management rather than by special legislation. The appropriate procedure would appear to be for Mr. Alexander to present his evidence of ownership of these lands to the Bureau of Land Management so that his claim could be examined on its merits. The passage of legislation granting patent to Mr. Alexander before the justice of his claim has been established, would not appear to be in the public interest.

This Department therefore recommends that H. R. 981 not be enacted.

The Bureau of the Budget advises that, from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely,

CHARLES F. BRANNAN, *Secretary.*

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It is the policy of the Government to encourage the development of the land resources of the United States, and to the extent possible to make the same available to the people of the United States. The Department of the Interior is the principal agency for the management of the land resources of the United States, and it is the policy of the Department to make the same available to the people of the United States. The Department of the Interior is the principal agency for the management of the land resources of the United States, and it is the policy of the Department to make the same available to the people of the United States.

Very truly yours,  
 James A. Kennedy, Secretary.